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March 7, 2016

Committee on Labor and Public Employees Testimony Regarding
House Bill 5368, An Act Concerning Homemaker Services and
Homemaker Companion Agencies

Dear Members of the Committee:

I am writing in SUPPORT of House Bill 5368, An Act Concerning Homemaker Services and Homemaker Companion Agencies

My name is Dennis Patouhas, I am the owner of Comfort Keepers of Lower Fairfield County which has been an employee-based provider of non-medical home care services since 2001. I am a member of the Connecticut Chapter of the Home Care Association of America which abides by an “**employee based model** of business”.

This bill intends to treat caregivers providing services to the sick and elderly in a manner consistent with the **employee based model**. This is accomplished by requiring employers of caregivers to report and pay unemployment insurance and workers compensation.

This bill provides needed protection of the client, their family and the caregiver. Currently, outside of the **employee based model**, there are no definitive parameters that establish a clear line of who is an employee and who is an employer in the area of home care. To leave this to debate to interpretation creates an avenue that might circumvent regulatory intent, deny state and federal revenue and work in conflict to general public policy.

Employees may be misclassified

A problem plaguing many industries and particularly in home care, employees incorrectly classified as independent contractors may go without workers compensation insurance and unemployment insurance which is afforded most other employees in the workforce as a matter of law.

Unemployment Insurance

I have learned that one of the major complaints regarding home care agencies filed with the Department of Consumer Protection is over unemployment insurance claims. A caregiver released from a long term assignment due to death or institutionalization of their client may file for unemployment benefits. The state in processing the claim looks for the payer source for the insurance, namely “the employer”. The vagueness as to who is the employer, may result in there being no one entity paying the premiums on the caregivers’ behalf. The family or elderly individual is the one constant throughout this scenario and are most often looked upon to be the employer and responsible party when there is not an employer based agency serving that arranges for the care. The shock that they have become the unsuspecting employer burdened with these additional costs of past due unemployment insurance premiums can become financially devastating to the client and their family.

If the attempt to collect the premiums of unemployment insurance from the family fails, then it appears this becomes the burden of the taxpayers of the State of Connecticut. Not only is it unfair, it becomes a form of penalty to all of the legal employers who DO pay unemployment insurance premiums in accordance with state law and public policy.

What could be more unfair, in light of the States dire financial situation? As the State continues to owe the Federal Government for borrowed funds to pay unemployment compensation during the financial crisis. The interest of this loan is shouldered by every legal employer in the state. The realization that they may also be paying claims for someone else's employee is totally inappropriate and unfair.

As professionals in providing and arranging for the care of the elderly, I believe this bill clearly establishes who is responsible for this insurance, relieving the recipient of the care from the burden, protecting the caregiver with legally mandated protection and providing state and federal treasuries with heretofore unpaid premiums.

Workers Compensation

A mandate of employment is the paying of workers compensation insurance to insure protection of an employee injured in the course of their job. Misclassification insures that this too becomes a confused and potentially abused area of employee/ employer relations.

As workers compensation is only paid by an employer on behalf of their employee, to leave this definition open for interpretation places the worker and the family of the recipient of care at risk of financial disaster.

An employer based agency pays this insurance. The more questionable issue is what happens when the party providing the caregiver does not. In some cases, that entity may advise the worker to arrange for and pay for insurance on their own.. We have yet to meet any caregiver who has or could afford such insurance. As a caregiver is rarely if ever an independent contractor, then the questions becomes, who are they the employee of? It behooves all parties that the professional agency that provided the caregiver and which continues to receive payment for as long as the care is provided, has an ongoing vested interest and should be held responsible for arranging and paying this insurance.

In the extreme, and unfortunately, there have been many, it becomes the risk of the client who again becomes an unsuspecting employer to be the party against whom the caregiver will turn for financial satisfaction of a work related injury.

I believe the intent of this bill is clarification of an unclear relationship and to provide protection and definition to the role of all parties. Lastly, it is revenue positive in that it provides income in the form of payroll taxes and unemployment premiums that may go unpaid.

Sincerely,

Dennis Patouhas

Owner